

STATE OF TENNESSEE
OFFICE OF THE
ATTORNEY GENERAL
P.O. BOX 20207
NASHVILLE, TENNESSEE 37202

March 23, 2004

Opinion No. 04-049

Authority to Impose Litigation Tax on Parking Tickets

QUESTIONS

1. How much, if any, litigation tax should be collected on parking tickets?
2. If the litigation tax is to be assessed on parking tickets by municipalities, how much is the tax and when is it collected?
3. Is this litigation tax the same as a privilege tax? If not, has the state authorized local municipalities to collect a \$1.00 state privilege tax on parking tickets?

OPINIONS

1. Pursuant to Tenn. Code Ann. § 67-4-602(f), a privilege tax on litigation in the amount of one dollar (\$1.00) should be levied and collected, upon conviction or by order, in all cases involving violations of any ordinance governing use of public parking space.
2. The only litigation or privilege tax that may be collected for violation of a parking ordinance is the \$1.00 litigation tax levied by Tenn. Code Ann. § 67-4-602(f). The tax, which is levied “upon conviction or by order,” should be collected upon the appropriate court’s adjudication that the accused violated the cited parking ordinance. Alternatively, if the accused elects not to contest the parking ticket, the tax should be collected upon payment of the ticket.
3. The \$1.00 litigation tax levied pursuant to Tenn. Code Ann. § 67-4-602(f) is a state privilege tax. The clerk of the appropriate court, including a city court, is required to collect the tax and to pay it over to the Department of Revenue.

ANALYSIS

In addition to other litigation taxes imposed in Title 67, Chapter 4 of the Tennessee Code, Tenn. Code Ann. § 67-4-602(f) levies

an additional privilege tax on litigation of one dollar (\$1.00) on all criminal charges, upon conviction or by order, instituted in any state, county or municipal court for any violation of title 55, chapter 8, or for violation of any ordinance governing use of public parking space. Notwithstanding any provision of this section or any other law to the contrary, the only litigation or privilege tax collected for a violation of any ordinance governing use of public parking space shall be the one dollar (\$1.00) litigation tax levied by the preceding sentence.

Tenn. Code Ann. § 67-4-602(f) (2003).

1. Pursuant to this statute, the Legislature has imposed a \$1.00 litigation tax in cases involving violations of public parking ordinances. In imposing this tax, however, the Legislature has limited the litigation tax that may be collected in such cases to the \$1.00 litigation tax set forth in the statute. Accordingly, only the \$1.00 litigation tax required by Tenn. Code Ann. § 67-4-602(f) may be collected in cases involving violations of public parking ordinances.

2. Under the statute, the \$1.00 litigation tax is levied “upon conviction or by order.” Tenn. Code Ann. § 67-4-602(f) (2003). Thus, the tax should be collected upon the appropriate court’s adjudication that the accused has violated the cited parking ordinance, or as ordered by the court. If the accused elects to pay the fine without contesting the parking ticket, the tax should be collected when the ticket is paid.

3. The litigation tax imposed by Tenn. Code Ann. § 67-4-602(f) is a privilege tax on litigation that is levied by the State of Tennessee. In cases involving the violation of a city parking ordinance, the clerk of the city court is required to collect the tax and pay it over to the Department of Revenue. *See* Tenn. Code Ann. § 67-4-605(a) (2003).

PAUL G. SUMMERS
Attorney General and Reporter

MICHAEL E. MOORE
Solicitor General

MARY ELLEN KNACK
Assistant Attorney General

Requested by:

The Honorable Dewayne Bunch
State Representative
107 War Memorial Building
Nashville, Tennessee 37243